
Except for the rental or leasing of facilities, if the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the allowable cost to the provider shall be no more than the price charged to the nonrelated organization provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of comparable services, or capital assets, or supplies.

B. Lease or rental costs paid to or by a related organization shall be allowed according to Section 9.070.

C. The cost of ownership of a capital asset owned by a related organization and used by the facility may be included in the allowable cost of the facility. When the capital asset is sold or otherwise disposed of by the related organization and the depreciation on the asset has been claimed as a facility cost, any gain realized from the sale by the related organization must be transferred to the facility as an offset in the facility's property-related cost category. The amount of gain to be offset shall be determined according to Section 9.010, item D.

D. A provider that sells, leases, or provides goods or services to a related organization or nonrelated organization shall allocate the cost of the goods or services to the related organization or nonrelated organization and identify the allocations in the facility's cost report.

Section 4.080 Capitalization. For rate years after September 30, 1986, the cost of purchasing or repairing capital assets shall be capitalized under items A to D.

A. The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500.

B. Repairs that cost \$500 or less may be treated as an expense. Repairs that cost more than \$500 and that extend the estimated useful life of the asset by at least two years must be capitalized. Improvements made solely for the purpose of making an asset useful for purposes other than those for which it was originally used or more useful for the same purposes must also be capitalized if the cost exceeds \$500. Except for repairs necessitated solely as a result of destructive resident behavior, repairs treated as an expense must be classified in the maintenance operating cost category. Repairs necessitated solely as a result of destructive resident behavior and treated as an expense must be classified as a program operating cost.

C. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized and depreciated.

D. Items, such as land improvements whose maintenance or construction are not the responsibility of the provider, land, and goodwill, are not considered depreciable capital assets.

Section 4.090 **Working capital interest expense.** Working capital interest expense is allowed subject to the requirements of items A and B.

A. Working capital interest expense on working capital debt incurred prior to January 1, 1986, is allowed.

B. Working capital interest expense for facilities constructed or established after January 1, 1986, must be limited under subitems (1) and (2).

(1) For the interim and settle-up payment rates the total amount of working capital interest expense allowed must not exceed 2.5 percent of the facility's allowable historical operating costs during the interim reporting period.

(2) For the rate year which follows the settle-up, the total amount of working capital interest expense allowed must not exceed 80 percent of the allowable working capital interest expense as determined in the settle-up cost report.

Section 4.100 **Retirement contributions.** Retirement contributions for each employee must be limited to either a qualified pension plan or a qualified profit sharing plan submitted to, and approved by, the Internal Revenue Service. Retirement plans specified in Internal Revenue Code, sections 403(b) and 408(k) are also allowable.

Section 4.110 **Therapeutic overnight trips, camping, and vacations for residents.** The provider may use facility staff, supplies, equipment, and vehicles ordinarily provided as part of the facility program for therapeutic overnight trips, camping, and vacations for residents. In addition, up to \$300 per year per resident may be allowed for fees, tickets, travel, lodging, and meals while residents are away from the facility. Other costs may be paid from other funding sources such as voluntary contributions from residents, relatives, and fund raisers.

Section 4.120 **Preopening costs.** Preopening costs of newly established facilities shall be allowable as in items A to D.

A. Preopening operating costs of newly established facilities which are incurred within 30 days prior to admission of residents must be included in the facility's interim and settle-up cost reports.

B. Preopening costs of newly established facilities which are incurred more than 30 days prior to admission of residents must be capitalized as deferred charges and amortized over a period of not less than 60 consecutive months beginning with the month in which the first resident is admitted for care.

C. Preopening costs do not include property-related costs.

D. A newly constructed or newly established facility's preopening costs must be limited to only those costs incurred during one of the following periods, whichever is shorter:

(1) between the date the Department approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or

(2) the 12 month period immediately preceding the 30 days before the date the facility is certified for medical assistance.

Section 4.130 Top management compensation. For establishment of the allowable historical operating cost, annual compensation for top management personnel who perform necessary services shall be limited according to items A to F.

A. In no case shall the total compensation reimbursed to an individual for top management exceed \$61,431. A person who is included in top management personnel who performs necessary services for the facility or provider group on less than a full-time basis may receive as allowable compensation no more than a prorated portion of the maximum based on time worked.

B. If a person compensated for top management functions in a facility or organization is compensated for providing consultant services to that facility or organization, the compensation for consultant services, however designated, shall be subject to the top management compensation limitation.

C. Top management compensation shall not include the benefits of group health or dental insurance, group life insurance, pensions or profit sharing plans, and government required retirement plans.

D. If the fringe benefits paid to top management personnel are not provided to all or substantially all of the facility's employees at the same benefit level, that portion of the fringe benefits paid to top management personnel which is not provided to all or substantially all of the facility's employees shall be disallowed.

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ATTACHMENT 4.19-D (ICF/MR)

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91-36/90-09/89-65/89-56/88-86/88-24/87-81)

E. An individual compensated for top management services on a less than full-time basis for a facility or provider group may be compensated for performing other necessary services which the individual is qualified to perform. Compensation for another necessary service must be at the pay rate for that service except that the total compensation paid to an individual cannot exceed the limit in item A.

F. The percentage difference between the previous two Januarys prior to the beginning of the rate year, the all urban consumer price index (CPI-U) for Minneapolis-Saint Paul, as published by the Bureau of Labor Statistics, new series index (1967 = 100) shall be used to increase the top management compensation limitation in item A. The adjustment required by this formula shall be effective for the reporting year beginning on January 1, 1986, and each January 1 thereafter.

Section 4.140 General cost principles. The Department shall use the cost principles in this section to determine allowable costs:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided to the facility and the cost is actually paid for by the facility within 180 days after the close of the reporting year except as provided in Section 4.060, item D;
- D. the cost effects of transactions that have the effect of circumventing these sections are not allowable under the principle that the substance of the transaction must prevail over its form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities agreements not to compete, or activities not commonly accepted in the ICF/MR industry, are not allowable.

Section 4.150 Pass through of training and habilitation services charges. Charges incurred by the ICF/MR for day training and habilitation services shall be paid as a pass-through payment.

Section 4.160 Workers' compensation insurance plans. The commissioner shall allow as workers' compensation insurance costs coverage obtained under the following conditions:

A. A plan approved by the commissioner of commerce as a Minnesota group or individual self-insurance plan as provided in Minnesota law;

B. A plan in which

(1) The facility, directly or indirectly, purchases workers' compensation coverage in compliance with Minnesota law from an authorized insurance carrier;

(2) A related organization to the facility reinsures the workers' compensation coverage purchased, directly or indirectly, by the facility; and

(3) All of the conditions in item D are met.

C. A plan in which:

(1) The facility, directly or indirectly, purchases workers' compensation coverage in compliance with Minnesota law from an authorized insurance carrier;

(2) The insurance premium is calculated retrospectively, including a maximum premium limit, and paid using the paid loss retro method; and

(3) All of the conditions in item D are met.

D. Additional conditions are:

(1) The reserves for the plan are maintained in an account controlled and administered by a person which is not a related organization to the facility;

(2) The reserves for the plan cannot be used, directly or indirectly, as collateral for debts incurred or other obligations of the facility or related organizations to the facility;

(3) If the plan provides workers' compensation coverage for non-Minnesota facilities, the plan's cost methodology must be consistent among all facilities covered by the plan, and if reasonable, is allowed notwithstanding any reimbursement laws regarding cost allocation to the contrary;

(4) Central, affiliated, corporate or facility costs related to their administration of the plan are costs which must remain in the facility's administrative cost category, and must not be allocated to other cost categories; and

(5) Required security deposits, whether in the form of cash, investments, securities, assets, letters of credit, or in any other form are not allowable costs for purposes of establishing the facilities' payment rates.

E. Any costs allowed pursuant to items A to C are subject to the following requirements:

(1) If the facility is sold or otherwise ceases operations, the plan's reserves must be subject to an actuarially based settle-up after 36 months from the date of sale or the date on which operations ceased. The facility's medical assistance portion of the total excess plan reserves must be paid to the state within 30 days following the date on which excess plan reserves are determined;

(2) Any distribution of excess plan reserves made to or withdrawals made by the facility or a related organization are applicable credits and must be used to reduce the facility's workers' compensation insurance costs in the reporting period in which a distribution or withdrawal is received, and

(3) If the plan is audited pursuant to the Medicare program, the facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the commissioner within 30 days of receipt by the facility or any related organization. The commissioner shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The department's authority to implement the audit findings is independent of its authority to conduct a field audit.

F. The Department shall have the authority to adopt emergency rules to implement this section.

SECTION 5.000 NONALLOWABLE COSTS.

The costs listed in this part are not allowable for purposes of establishing total payment rates. If any of the costs in this part are included in any account of the provider or provider group, they must be identified on the facility's cost report.

A. Contributions, including charitable contributions, and contributions to political action committees or campaigns.

B. Salaries and expenses of a lobbyist.

C. Assessments made by or the portion of dues charged by associations or professional organizations for lobbying, contributions to political action committees or campaigns, or litigation, except for successful challenges to decisions of agencies of Minnesota. When the breakdown of dues charged to a facility by an association or professional organization is requested by the Department and is not provided, the entire cost shall be disallowed.

D. Advertising designed to encourage potential residents to select a particular facility. This item does not apply to a total expenditure of \$2,000 or less for all notices placed in the telephone yellow pages for the purpose of stating the facility's name, location, telephone number, and general information about services in the facility.

E. Assessments levied by the Department of Human Services or the Minnesota Department of Health for uncorrected violations.

F. Purchases or activities not related to resident care such as flowers or gifts for employees or providers, employee parties, and business meals except as in Section 6.030, item O.

G. Penalties, including interest charged on the penalty, interest charges which result from an overpayment, and bank overdraft or late payment charges.

H. Costs related to the purchase and care of pets which exceed the lesser of \$20 per year per licensed bed, or \$200 per year per facility.

I. Costs of sponsoring nonresident activities such as athletic teams and beauty contests.

J. Premiums on a life insurance policy for an owner or board member, of a facility, or for an employee of a related organization, except that the premiums shall be allowed if:

(1) the coverage is included in the policy provided for all employees;

(2) the coverage and premium is comparable to that provided for all employees; and

(3) the insured person is an employee of the provider or related organization;
or

(4) such a policy is required as a condition of mortgage or loan for the facility and the mortgagee or lending institution is listed as the beneficiary.

K. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment.

L. Employee's or owner's membership or other fees for social, fraternal, sports, health, or similar organizations.

M. Training programs for anyone except residents, facility employees, volunteers in the facility, or a resident's family or legal guardians.

N. Training programs to meet the minimum educational requirements of a position, education that leads to a degree, or education that qualifies the employee for a new trade or profession.

O. Bad debts and related bad debt collection fees.

P. Costs of fund raising activities.

Q. Costs of personal need items, such as personal clothing, normally paid for by residents.

R. Costs incurred in providing other than ICF/MR services such as the costs of apartments, day activity center or work activity center costs, regular travel costs to attend day activity or work activity centers, and semi-independent living skills services (SILS).

S. Operating costs for goods and services to the extent that the goods and services are financed by gifts or grants from public funds. A transfer of funds from a local government unit to its governmentally owned facility is not a gift or grant under this item.

T. Telephones, televisions, and radios provided in a resident's room.

U. Costs of agreements not to compete.

V. Costs of services provided to a resident by a licensed medical, therapeutic, or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

(1) purchase of service fees paid to the vendor or his or her agent who is not an employee of the facility or the compensation of the practitioner who is an employee of the facility;

(2) allocated compensation and related costs of any facility personnel assisting in providing these services; and

(3) allocated cost of any operating or property-related cost for providing these services such as housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, and supervisory and administrative staff costs.

If any of the expenses in subitems (1) to (3) are incurred by the provider, these expenses must be reported under nonreimbursable expenses together with any of the income received or anticipated by the facility, including any charges by the provider to the vendor.

W. Allowances for uniforms unless required by governmental rules or regulations.

X. Costs of therapeutic overnight trips, camping, or vacations for residents except as in Section 4.110.

Y. Legal and related expenses for unsuccessful challenges to decisions of governmental agencies.

Z. Fringe benefits or payroll taxes associated with disallowed salary costs.

AA. Costs of approved services provided to very dependent persons with a special needs rate exception approved under Section 16.000.

BB. Payments made in lieu of real estate taxes, unless such payments are made according to a legally enforceable, noncancelable, written contract entered into prior to January 1, 1986.

CC. Costs incurred for activities directly related to influencing employees with respect to unionization.

DD. Costs associated with changes in ownership or reorganization of provider entities, including legal fees, accounting fees, administrative costs, travel costs, and the costs of feasibility studies attributed to the negotiation or settlement of a change in ownership or reorganization.

EE. Accruals of vacation and sick leave for employees who are not fully vested.

FF. Costs for pension or profit sharing plans which do not meet the requirements of Section 4.100, or costs for workers' compensation insurance plans which do not meet the requirements of Section 4.160.

GG. Costs for which adequate documentation is not maintained or provided.

SECTION 6.000 REPORTING BY COST CATEGORY.

Section 6.010 **Program operating costs.** The direct costs of program functions must be reported in the program operating cost category. These costs include:

A. salaries of program staff, including the program director, unit coordinators, and nursing staff;

B. supplies;

C. consultant or purchased services;

D. program staff training including the cost of lodging and meals, to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties;

E. therapeutic overnight trips, camping, or vacations for residents within the limitations of Section 4.110;

F. membership or other fees for resident participation and staff supervision in social, sports, health, or similar organizations;

G. the operating costs of a facility owned vehicle except staff compensation costs, or reimbursement for mileage for use of a personal vehicle, to the extent that the vehicle is used to transport residents for program purposes;

H. telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms;

I. payroll taxes and fringe benefits allocated in accordance with Section 3.060;

J. accrued vacation and sick leave; and